REMARKS

Applicant has studied the Office Action dated July 27, 2007. Claims 63-67, 69-71 and 75-99 are pending, with claims 63-67, 69-71, 80-89 and 98 having been previously withdrawn from consideration. Claims 63 and 75 are independent claims.

It is submitted that the application is in condition for allowance. Reconsideration and reexamination are respectfully requested.

Amendments to Specification

With this paper, an amendment has been made to the specification at page 1 in order to claim priority to the parent application.

Claim for Foreign Priority under 35 U.S.C. § 119

It is respectfully requested that the Examiner formally acknowledge the Applicant's claim for foreign priority under 35 U.S.C. § 119 and receipt of the certified copy of the priority document in parent application Ser. No. 10/252,412.

§ 102 Rejections

Claims 75-79, 90, 91, 93, 96 and 99 were rejected under 35 U.S.C. § 102(b) as being anticipated by Hsu (U.S. Patent No. 5,907,604). Applicant respectfully disagrees with the Examiner's interpretation of Hsu and respectfully traverses the rejection.

It is respectfully noted that a proper rejection for anticipation under § 102 requires complete identity of invention. The claimed invention, including each element thereof as recited in the claims, must be disclosed or embodied, either expressly or inherently, in a single reference. Scripps Clinic & Research Found. v. Genentech Inc., 927 F.2d 1565, 1576, 18 U.S.P.Q.2d 1001, 1010 (Fed. Cir. 1991); Standard Havens Prods., Inc. v. Gencor Indus., Inc., 953 F.2d 1360, 1369, 21 U.S.P.Q.2d 1321, 1328 (Fed. Cir. 1991).

With regard to the rejection of independent claim 75, it is respectfully noted that the Examiner asserts, at paragraph 5 on page 4 of the Office Action, that Hsu discloses "pre-storing, in a receiving party [called party] terminal, a virtual image created by the receiving party based on at least one of the receiving party's prior knowledge of a

calling party and the receiving party's [his/her] own perception of the calling party" at col. 2, ll. 18-21 and, specifically cites the "caller ID" disclosed in Hsu. It is further respectfully noted that the Examiner appears to have considered an incorrect version of independent claim 75, the text indicated in brackets having been deleted from the claim by virtue of the Supplemental Preliminary Amendment submitted on September 22, 2006.

It is respectfully submitted that the text indicated in brackets, which is no longer recited in independent claim 75, is pertinent as the claim presently recites that a virtual image created by the receiving party is pre-stored in a receiving party terminal and that the pre-stored image is based on at least one of the receiving party's prior knowledge of a calling party and the receiving party's own perception of the calling party. It is respectfully submitted that Hsu fails to disclose a virtual image created by the receiving party is pre-stored in a receiving party terminal and that the pre-stored image is based on at least one of the receiving party's prior knowledge of a calling party and the receiving party's own perception of the calling party.

It is respectfully noted that the disclosure in Hsu is specifically that "the **calling party** may define the image to be **associated with their Caller ID**" and that the "**calling party** transmits an image ... prior to, or concurrently with, a telephone call intended to be answered by the receiving party" and that "image is stored in ... the receiving party's telephone system along with an indication of the **Caller ID of the calling party**" such that the "next time the calling party calls the receiving party, the previously stored image is accessed and displayed." See Hsu at col. 2, ll. 14-23 (emphasis added). It is respectfully submitted that the disclosure in Hsu does not support the Examiner's assertions.

It is respectfully submitted that Hsu does not disclose a virtual image created by the receiving party is stored in the receiving party terminal, as recited in independent claim 75, but rather discloses that an image defined by "the calling party" is transmitted to and stored in "the receiving party's telephone system." It is further respectfully submitted that Hsu fails to disclose that the pre-stored image is based on at least one of the receiving party's prior knowledge of a calling party and the receiving party's own perception of the calling party, but rather discloses that the image is "associated with

[the calling party's] Caller ID" and that the image is transmitted either "prior to" or "concurrently with" a telephone call to the "receiving party" and stored in the "receiving party's" telephone system with an "indication of the Caller ID of the calling party" or, in other words, that the "receiving party's" prior knowledge of a calling party and the "receiving party's" own perception of the calling party is not a consideration in the "image" that is "associated with [the calling party's] Caller ID." Therefore, it is respectfully asserted that independent claim 75 is allowable over the cited reference.

With regard to the rejection of claim 93, it is respectfully noted that the Examiner asserts, at paragraph 5 on page 5 of the Office Action, that Hsu discloses "the **receiving party** selects the at least one format for transmitting the media information" at col. 3, ll. 2-6 and col. 4, ll. 54-63 and specifically cites the "still image" disclosed in Hsu (emphasis added). It is further respectfully noted that the Examiner, with respect to claim 99, asserts the same disclosure in Hsu, specifically col. 3, ll. 2-6 and col. 4, ll. 54-63 and the "still image," as disclosing "the **calling party** selects the at least one format for transmitting the media information" (emphasis added). It is respectfully submitted that the disclosure in Hsu cannot be interpreted as analogous to both the "receiving" and the "calling" party "selects the at least one format for transmitting the media information."

It is respectfully noted that the disclosure in Hsu is that "Videophone 280 also receives composite video information from, e.g., external video cameras at 282" and that "Videophone 280 transfers information to desktop PC 284, notebook PC 286 and personal digital assistant (PDA) 288." See Hsu at col. 4, ll. 57-61. It is further respectfully noted that the disclosure in Hsu is that "Still camera 290 transfers picture information to the desktop PC, notebook PC and PDA." See Hsu at col. 4, ll. 61-63.

It is respectfully submitted that the proper interpretation of the cited portion of Hsu is that the "Videophone 280," "external video cameras at 282" and "still camera 290" in FIG. 4 of Hsu are located at the "calling party" and the "information" is transferred to a "desktop PC 284, notebook PC 286 and personal digital assistant (PDA) 288" that are located at the "receiving party." In support of the Applicant's submitted interpretation of Hsu, the Examiner's attention is respectfully directed to the aforementioned disclosure at col. 2, ll. 14-23 of Hsu that it is the "calling party" that

defines the "image" that is "associated with their Caller ID" and it is the "calling party" that transmits the "image" to the "receiving party" as well as to col. 5, ll. 13-55 of Hsu, which discloses that "the operations of image capture 350 ... are performed at the transmitting end ... performed by components at the sending, or calling, party's end." Moreover, it is respectfully submitted that there is no disclosure in Hsu of any selection by the receiving party of any format for transmitting the media information, as recited in claim 93. Therefore, it is respectfully asserted that claim 93 is allowable over the cited reference.

It is respectfully asserted that independent claim 75 is allowable over the cited reference. It is further respectfully asserted that claim 93 also is allowable over the cited reference by virtue of the limitations recited therein as well as by virtue of its dependence from claim 75. Moreover, it is respectfully submitted that claims 74-79, 90, 91, 96 and 99 also are allowable over the cited reference by virtue of their dependence from claim 75.

§ 103 Rejections

Claims 92 and 97 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Hsu. This rejection is respectfully traversed.

It is respectfully noted that the Federal Circuit has provided that an Examiner must establish a case of prima facie obviousness. Otherwise the rejection is incorrect and must be overturned. As the court recently stated in In re Rijkaert, 28 USPQ2d 1955, 1956 (Fed. Cir. 1993):

"In rejecting claims under 35 U.S.C. § 103, the examiner bears the initial burden of presenting a prima facie case of obviousness. Only if that burden is met, does the burden of coming forward with evidence or argument shift to the applicant. 'A prima facie case of obviousness is established when the teachings from the prior art itself would appear to have suggested the claimed subject matter to a person of ordinary skill in the art.' If the examiner fails to establish a prima facie case, the rejection is improper and will be overturned." (citations omitted.)

With respect to the rejection of claim 92, it is respectfully noted that the Examiner, at paragraph 7 on pages 5-6 of the Office Action, indicates that Hsu does not

disclose that "an identification of the selected at least one format for transmitting the media information is stored in association with calling party identification information, and determined at the receiving party terminal" as recited in claim 92. It is further respectfully noted that the Examiner further asserts that "Hsu teaches many formats for transferring data as [conforming] to ITU-T standards including H.320, H.323, H.324, and T.120 and in some instances, composite video information from external cameras and still camera images are wirelessly transferred" and that "it would have been obvious that any **chosen format of the calling party** for transmitting the media information to the receiving party must be agreed in advance by both parties." (emphasis added). Applicant respectfully disagrees with the Examiner's interpretation of Hsu.

As previously respectfully submitted with regard to the rejection of claim 93, Hsu discloses that it is the "calling party" that transmits the "image" to the "receiving party." Therefore, it is respectfully submitted that the disclosure in Hsu related to the asserted "many formats for transferring data as [conforming] to ITU-T standards" is with respect to the "calling party" defining the format and is not analogous to the at least one format for transmitting the media information being determined at the receiving party terminal, as recited in claim 92. It is further respectfully submitted that the Examiner's own interpretation is that Hsu discloses a "**chosen format of the calling party**", which is contrary to the recitation of determined at the receiving party terminal in claim 92.

As previously asserted, independent claim 75 is allowable over Hsu. Therefore, it is respectfully asserted that claim 92 is allowable over the cited reference by virtue of the limitations recited therein as well as by virtue of its dependence from claim 75 and claim 97 is allowable over the cited reference by virtue of its dependence from claim 75.

Claims 94 and 95 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Hsu, in view of Lev et al. ("Lev" U.S. Pat. No. 5,987,327). This rejection is respectfully traversed.

It is respectfully submitted that Lev fails to cure the deficiencies of Hsu with regard to a virtual image created by the receiving party is pre-stored in a receiving party terminal and that the pre-stored image is based on at least one of the receiving party's prior knowledge of a calling party and the receiving party's own perception of the calling party, as recited in independent claim 75. Therefore, it is respectfully asserted that

independent claim 75 is allowable over the cited combination of references, as are claims 94 and 95, by virtue of their dependence from claim 75.

Double Patenting Rejection

The Examiner rejected claims 75-79, 90, 91, 93, 96 and 99 based on non-statutory type double patenting in view of claims 1-8 of U.S. Patent No. 7,003,040 ("the '040 patent"). This rejection is respectfully traversed.

It is respectfully submitted that the '040 patent and the present application are commonly owned. A terminal disclaimer is submitted herewith in compliance with 37 C.F.R. 1.321 to overcome this rejection. It is respectfully requested that the rejection be withdrawn.

CONCLUSION

In view of the above remarks, Applicant submits that claims 75-79, 90-97 and 99 of the present application are in condition for allowance. Reexamination and reconsideration of the application, as originally filed, are requested.

If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at the Los Angeles, California telephone number (213) 623-2221 to discuss the steps necessary for placing the application in condition for allowance.

LEE, HONG, DEGERMAN, KANG & SCHMADEKA

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By: /Richard C. Salfelder/
Richard C. Salfelder, Esq.
Registration No. 51,127
Attorney for Applicant(s)

Customer No. 035884